



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

July 26, 2004

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: David E. Janssen 
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

**POLICY REGARDING PROOF OF PAYMENT TO CONTRACT EMPLOYEES
INVOLVED IN A LIVING WAGE VIOLATION**

At the Board meeting of June 8, 2004, Supervisor Molina raised concerns regarding Agenda Item No. 14, relating to termination of the contract with Star Building Maintenance, Inc. for beach restroom cleaning. The termination was recommended because of repeated performance deficiencies and failure to pay employees in compliance with the County's Living Wage Ordinance (LWO). Specifically, Supervisor Molina requested that County Counsel and the Auditor-Controller develop a policy that defines what the County considers sufficient proof that a contractor has cured underpayment of its employees as a result of the LWO violation before the County releases the contractor any withheld payments due to such a violation.

The Chief Administrative Office (CAO) is responsible for issuing policy directives related to the LWO. Thus, this office, with input from the Auditor-Controller, County Counsel, Office of Affirmative Action Compliance (OAAC), Department of Public Works (DPW), and Internal Services Department (ISD), has coordinated the response to your Board's request. We have now developed specific policies and procedures that appropriately address incidents where it becomes apparent that a contractor is violating the LWO by underpaying its employees (attached). These guidelines delineate the actions and responsibilities of the affected departments, and include a range of audit procedures based on the severity of the violations. Unless otherwise instructed by your Board, the CAO will issue the policy as a revision to the LWO Implementation Plan to all County departments within 30 days, and the Department of Beaches and Harbors (DBH) will

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utilize the policy in addressing the contract discrepancies with Star Building Maintenance, Inc. In addition, CAO will convene a meeting of relevant departments to examine tightening other LWO policies and procedures to ensure consistency, accuracy, and availability of Living Wage Program information.

Please call me if you have any questions. If you have any questions regarding the Star Building Maintenance, Inc. contract, your staff may contact Santos H. Kreimann of DBH at (310) 305-9544. Any questions regarding the development of the LWO policy should be directed to Martin Zimmerman of the CAO at (213) 974-1326.

DEJ:MKZ
VLA:os

Attachment

c: Executive Officer, Board of Supervisors
Auditor-Controller
County Counsel
Affirmative Action Compliance Officer
Director of Beaches and Harbors
Director of Public Works
Interim Director of Internal Services

LIVING WAGE ORDINANCE UNDERPAYMENT RECOVERY POLICY

Whenever it becomes apparent that a contractor is violating the Living Wage Ordinance by underpaying its employees, the County should immediately determine the amount of underpaid wages and withhold the total underpayment amount from the contractor. This amount shall be withheld from the contractor's outstanding invoices. If the specific amount of underpayment is not immediately available, the County department may consider withholding based on a good faith estimate and facts and information available to the department, with the understanding that adjustments may be made based upon subsequent confirmation of the specific amount of underpayment. However, before withholding based upon an estimate, the department should first confer with County Counsel.

Before the contractor is paid any of the withheld amounts, the contracting County department must verify that the contractor has paid the employees the previous underpayments. The County department should also ensure that the contractor has corrected any systemic or organizational flaws that caused or led to the underpayments.

Before withheld funds are released, the first necessary action is for the contractor to calculate the amount owed. This calculation should be documented through the use of timecards, cancelled checks, payroll records and interviews with employees. In the event some of the documentation is not available, reasonable estimates made with employee input can be used. Once the amount owed has been computed, it is necessary for the County department to verify that the employees actually receive payment in a timely manner. The following are examples of procedures that may be performed as part of the verification process.

- Recalculating the amount owed and verifying supporting documentation.
- Requiring that the contractor repay the underpaid wages by separate checks or a discernable additional line item on their standard payroll check.
- Observing the checks and comparing their amount to the amount owed.
- Interviewing employees to verify they received the checks, were able to cash them, and did not pay any "kickbacks".
- Observing the employees being paid (payoff).
- Reviewing the cancelled checks and bank statements.

Depending on the severity and nature of the violation, some or all of the above procedures, and perhaps additional procedures, will need to be performed. County departments should consult with the Auditor-Controller to determine the procedures to be used in each situation.

There may be instances when the County may wish to continue to contract with a contractor who has violated the Living Wage Ordinance by the underpayment of wages. This would most likely happen in an instance where the contractor made small or inadvertent errors. In these cases, the County department must ensure its monitoring is sufficient to ensure past problems have been corrected. This will require the use of some or all of the procedures discussed above. The department should consult with the Auditor-Controller to determine the actual monitoring procedures to be used in each situation.